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August 15, 2006

### **AGENDA ITEM 3**

#### **TO: MEMBERS OF THE BENEFITS AND PROGRAM ADMINISTRATION COMMITTEE**

**I. SUBJECT:** Assembly Bill 2863 (Karnette)—As Amended  
June 27, 2006

Retirement: Eligibility of Previous Service

**II. PROGRAM:** Legislation

**III. RECOMMENDATION:** Neutral

This bill does not significantly affect the benefit interests of our stakeholders and does not significantly impact CalPERS' benefits or the administration of the System.

#### **IV. ANALYSIS:**

On July 11, 2002 the County of Riverside and three of its special districts (collectively referred to as the Riverside agencies) amended their contracts with CalPERS from offering the 2% @ 55 retirement formula to offering the 3% @ 60 formula. Under current law, each of the Riverside agencies is a separate contracting employer so that for retirement benefit purposes, employment with more than one Riverside agency is not considered a continuation of employment by a single entity. Thus, an employee of one Riverside agency who has service with more than one of the Riverside agencies would be entitled to 3% @ 60 for only the member's service associated with the Riverside agency by which employed on or after July 11, 2002. The employee would be entitled only to 2% @ 55 for service with another of the Riverside agencies that occurred prior to adoption of the 3% @ 60 formula. Employees of the Riverside agencies have frequently transferred among the agencies; those who transferred before July 11, 2002 are not eligible to have their previous service with the other Riverside agency employer increased to the 3% percent @ 60 formula.

This bill would allow members employed by a Riverside agency to have their previous service with these agencies covered under the 3% @ 60 retirement formula.

### **Background**

The 3% @ 60 retirement formula for local miscellaneous members was added by AB 616 (Stats. 2001, Ch. 782), which provided that benefit changes were only applicable to members employed by a contracting agency “**on or after**” the date the contracting agency provides for the increased retirement benefit. Members who have service with an agency amending its contract to provide for the higher formula, but who are no longer working for that agency at the time of the amendment are not eligible to have their previous service increased to the 3% @ 60 formula. This requirement also applies to the 2.5% @ 55 and the 2.7% @ 55 retirement benefit formulas created by AB 616.

### **County of Riverside**

The Riverside agencies (the County of Riverside, Flood Control and Water Conservation District, the Regional Park and Open Space District, and the Waste Resources Management District) are separate legal entities and have separate contracts with CalPERS. These agencies, however, view themselves as all being part of the County of Riverside in terms of their governance, administration of personnel benefits, ability to transfer between agencies, etc. Employees frequently transfer from the County of Riverside to the Water Resources Management District and vice versa without any loss of seniority or other benefits such as health coverage, vacation, etc.

The labor unions are the same among the agencies; labor contract provisions, salaries and benefits are all consistent among these four agencies. Written Administrative and Human Resources policies apply equally to all contract agencies. The administrative support functions of each agency are performed by County personnel, such as:

- County Executive Office for policy and budget oversight;
- County Treasurer for investment and treasury functions;
- County Human Resources for personnel matters, including recruiting, employee relations, etc.;
- County Auditor-Controller for payroll warrants; and
- County Counsel for legal matters.

Because these agencies have separate contracts with CalPERS for retirement coverage, many individuals who have worked for or transferred from one of these four agencies to another have previous service that cannot be covered under the 3% @ 60 retirement formula because they were not employed with the same agency at the time the contract was amended - even though all four agencies

contracted for this benefit on the same date. The County is sponsoring this legislation to remedy that problem by allowing members employed by the County of Riverside or any of its three special districts to have their previous service with these agencies covered under the 3% @ 60 retirement formula.

### **Proposed Changes**

This bill has one provision affecting CalPERS, and would allow members with previous service with any of the Riverside agencies specified in the bill to have that service covered under the 3% @ 60 retirement formula. This bill would apply to persons employed by any of these agencies at the present time, as well as to persons with such service in the past who are returning to work with any of the Riverside agencies at any time in the future.

### **Legislative History**

2001 Chapter 782 (AB 616, Calderon); created three new retirement formulas for miscellaneous members (2.5% @ 55, 2.7% @ 55, and 3% @ 60), that would apply to a member who is employed by a contracting agency **“on or after”** the date the contracting agency provides for this benefit.

### **Issues**

#### **1. Arguments of Those in Support**

The sponsor states that because of the similarity in governance, administration of personnel benefits, the ability to transfer between agencies, etc., that the employees of any of these Riverside agencies have always been, in essence, employed by the County of Riverside, and that it is inequitable to deny the 3% @ 60 formula to those employees who “transferred” from one of these agencies to another before the effective date of their contract amendment for the 3% @ 60 formula.

The sponsor further states that it was the intent of the Riverside County Board of Supervisors that when they contracted for the 3% @ 60 retirement formula that all previous service time with the “County,” no matter under which agency/district it was accumulated, would be covered under the 3% @ 60 formula because employees gave up a raise for 18 months in order to garner the 3% @ 60 benefit formula.

*Organizations in Support: County of Riverside*

#### **2. Arguments of Those in Opposition**

There is no known opposition at this time.

3. Other Agencies Could Seek Similar Legislation

The County of Riverside and its three special districts find themselves in a unique situation because of their uniform human resource policies and administrative functions. We are not aware of any other agencies facing similar circumstances, but it is possible that one could exist. In the future, a contracting agency that finds itself in similar a situation would also need to seek the appropriate legislation.

4. Other Alternatives were explored

CalPERS staff met with officials from County of Riverside on several occasions to discuss possible administrative remedies such as merging the Riverside agencies into a single entity. In the end, only legislation offers a single, comprehensive solution.

5. Legislative Policy Standards

The Board's Legislative Policy Standards suggest a neutral position on proposals that do not significantly affect the benefit interests of our stakeholders and do not significantly impact CalPERS' benefits or the administration of the System. AB 2863 would allow approximately 200 members with service under the County of Riverside and its three special districts to have their previous service adjusted to the 3% @ 60 formula.

**V. STRATEGIC PLAN:**

This item is not a specific product of the Annual or Strategic Plans, but is part of the regular and ongoing workload of the Office of Governmental Affairs.

**VI. RESULTS/COSTS:**

**Program Costs**

Assembly Bill 2863 will provide active members of the Riverside agencies with the 3% @ 60 benefit formula for all past service in any of those four agencies. By doing so, those agencies will see an increase in their pension liabilities and will be required to pay a higher contribution rate to CalPERS to fund the increase in benefits. The actual cost impact of this benefit improvement has not been identified.

**Administrative Costs**

The administrative costs would be minor and absorbable.

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